

Senate Bill No. 1544

CHAPTER 284

An act to add Sections 17207.12 and 24347.12 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 7, 2012. Filed with
Secretary of State September 7, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1544, Hernandez. Income taxes: disaster losses: Counties of Los Angeles and San Bernardino.

The Personal Income Tax Law and the Corporation Tax Law allow individual and corporate taxpayers to utilize net operating losses and carryovers and carrybacks of those losses for purposes of offsetting their individual and corporate tax liabilities. Existing law, for net operating losses incurred in taxable years beginning on or after January 1, 2008, provides a carryover period of 20 years and allows net operating losses attributable to taxable years beginning on or after January 1, 2013, to be carrybacks to each of the preceding 2 taxable years, as provided. Existing law disallows the deduction for net operating losses and net operating loss carryovers in the 2008 to 2011, inclusive, taxable years for a taxpayer with over a specified amount of business income and extends the carryover period for those net operating losses, thus allowing the taxpayer to have the same number of years to utilize the deduction as the taxpayer would have had if the disallowance for those taxable years had not occurred.

Existing law disallows net operating loss carrybacks for any net operating losses attributable to taxable years beginning before January 1, 2013, but would allow net operating losses attributable to taxable years beginning on or after January 1, 2013, to be carrybacks to each of the preceding 2 taxable years, as provided.

This bill would conform to a specified section of the Internal Revenue Code regarding disaster losses, which would authorize a taxpayer to make an election to claim a deduction for any losses sustained in the Counties of Los Angeles and San Bernardino as a result of the severe winds that occurred in November 2011 on the tax return for the preceding year, as provided. This bill would provide that any provision of law that suspends, defers, reduces, or otherwise diminishes the deduction of a net operating loss does not apply to a net operating loss attributable to those severe winds that occurred in November 2011 in the Counties of Los Angeles and San Bernardino.

This bill would make a legislative finding and declaration relating to the statewide public purpose served by the bill.

This bill would take effect immediately as a tax levy.

The people of the State of California do enact as follows:

SECTION 1. Section 17207.12 is added to the Revenue and Taxation Code, to read:

17207.12. (a) Section 165(i) of the Internal Revenue Code shall be applicable to any losses sustained in the Counties of Los Angeles and San Bernardino as a result of the severe winds that occurred in November 2011.

(b) For losses described in subdivision (a), the election under Section 165(i) of the Internal Revenue Code may be made on a return or amended return filed on or before the due date of the return, determined with regard to extension, for the taxable year in which the disaster occurred.

(c) Unless specifically provided otherwise, any law that suspends, defers, reduces, or otherwise diminishes the deduction of a net operating loss shall not apply to a net operating loss attributable to the loss described in subdivision (a).

SEC. 2. Section 24347.12 is added to the Revenue and Taxation Code, to read:

24347.12. (a) Section 165(i) of the Internal Revenue Code shall be applicable to any losses sustained in the Counties of Los Angeles and San Bernardino as a result of the severe winds that occurred in November 2011.

(b) For losses described in subdivision (a), the election under Section 165(i) of the Internal Revenue Code may be made on a return or amended return filed on or before the due date of the return, determined with regard to extension, for the taxable year in which the disaster occurred.

(c) Unless specifically provided otherwise, any law that suspends, defers, reduces, or otherwise diminishes the deduction of a net operating loss shall not apply to a net operating loss attributable to the loss described in subdivision (a).

SEC. 3. The Legislature finds and declares that this act fulfills a statewide public purpose because all of the following:

(a) On December 9, 2011, the Governor of California made a finding that conditions of extreme peril to public health and safety to persons and property existed due to the severe winds occurring in November 2011 in the Counties of Los Angeles and San Bernardino and proclaimed a state of emergency to exist within those counties, thus qualifying affected persons for various forms of governmental assistance and relief.

(b) This act is consistent with, and supplements, the proclaimed disaster assistance and relief by providing necessary tax relief to the affected jurisdiction and persons to allow them to maintain essential basic services and repair damage to, and restore, their homes and businesses.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.